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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,494	04/06/2005	Olaf Such	DE 020217	4785

24737 7590 10/31/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

KOWALEWSKI, FILIP A

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/530,494	Applicant(s) SUCH ET AL.	
	Examiner Filip A. Kowalewski	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Claims 1 and 9 are objected to because of the following informalities:

“actuatable” in line 6 of claim 1 and line 2 of claim 9 is either misspelled or not a word.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “actuatable control unit” is not defined explicitly in the specification or implicitly through its usage. Thus, the term renders the claim indefinite since one of ordinary skill in the art would not be able to ascertain the scope of the claim. Furthermore, the Examiner has interpreted the claim in a manner that would render the prior art applicable. *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984).
Claims 2-5 are rejected due to their dependence upon claim 1.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The term "actuatable data input port" is not defined explicitly in the specification or implicitly through its usage. Thus, the term renders the claim indefinite since one of ordinary skill in the art would not be able to ascertain the scope of the claim. Furthermore, the Examiner has interpreted the claim in a manner that would render the prior art applicable. *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102() as being anticipated by U.S. Patent No. 6,315,719 to Rode et al. cited by Applicant in the IDS (hereinafter Rode).

Rode discloses the following claim limitations:

1. A system (1) for monitoring a physiological condition of an individual, comprising
sensing means (3) (*Fig. 1 – 1 Sensor*) arranged to pick up a first signal (M) in a first mode of the system, said first signal being representative of said physiological condition and to forward said first signal to a signal processing unit (33) (*Fig. 1 – 3 Microchip*),

characterized in that said system comprises an actuatable control unit (2) (*Fig. 3 – 10 body transceiver*) positioned remote from said signal processing unit, said control unit (2) being suitable to generate a second signal (T) arranged to be superimposed on the first signal (M), said signal processing unit (33, 37) being arranged to decode the second signal and to make the system enter into a second mode upon receipt of the second signal (T).

2. A system according to claim 1, characterized in that the control unit (2) comprises an electrode (68) to be arranged in contact with the individuals skin, said electrode being arranged to transmit the second signal (69) (*Col. 6 – Ln. 32-41*).

3. A system according to claim 2, characterized in that the system further comprises an RF-link arranged to establish a wireless communication to a remote base unit (4), the second signal (T) being a trigger signal for the RF-link to perform a predetermined operation (*Col. 6 – Ln. 62-67 & Col. 7 – Ln. 1-16*).

4. A system according to claim 2, characterized in that the second signal (T) comprises data to be processed by the signal processing unit (33, 37) (*Col. 2 – Ln. 50-55*).

Claim 5 is rejected on substantially the same basis as claim 1.

6. A control unit (2) conceived to be suitable for a personal monitoring system (3), said

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personal monitoring system being arranged to pick-up a signal (M) representative of a physiological condition of an individual, characterized in that said control unit is arranged to control the personal monitoring system (3) by means of a generation of a suitable trigger signal (T), and by superimposing said trigger signal (T) on the signal representative of the monitored physiological condition (*Col. 2 – Ln. 30-55*).

7. A control unit according to claim 6, characterized in that the control unit (2) comprises an electrode (68) to be arranged in a contact with the individual's skin, said electrode being arranged to transmit the trigger signal (69) (*Col. 6 – Ln. 32-41*).

Claims 8 and 9 are rejected on substantially the same basis as claim 6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip A. Kowalewski whose telephone number is 571-272-5668. The examiner can normally be reached on Monday - Friday: 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Filip A. Kowalewski
October 23, 2006



MICHAEL ASTORINO